

Message Text

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TO USMISSION IAEA VIENNA PRIORITY

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E.O. 11652 N/A

TAGS: IAEA TECH

SUBJ: NEGOTIATION OF US-IAEA SAFEGUARDS AGREEMENT: PROTOCOL

REFS: (A) IAEA VIENNA 7117; (B) IAEA VIENNA 7118;

(C) IAEA VIENNA 7140

1. WE BELIEVE US SHOULD TABLE DRAFT PROTOCOL AT THE
SEPTEMBER 26 NEGOTIATING SESSION, AND THAT REFTELS
EXTREMELY HELPFUL STEP TOWARD THIS GOAL. WE OFFER THE
FOLLOWING COMMENTS ON MATERIALS IN REFTELS:

2. ARTICLE 101: SUGGESTION IN REFTEL (C) SEEMS ACCEPT-
ABLE.

3. ARTICLE 101: WE CAN ACCEPT "WHICH IS AN INTEGRAL PART
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OF THE AGREEMENT" BUT WE ARE CONCERNED THAT REFERENCES IN

PARTS I AND II TO FACILITIES "SUBJECT TO SAFEGUARDS UNDER THIS AGREEMENT" MAY LEAD TO CONFUSION AS TO STATUS OF MATERIAL COVERED BY PROTOCOL.

4. ARTICLE 103: SECOND SENTENCE SHOULD READ: "UPON SUCH NOTIFICATION, THE LIST SHALL BE DEEMED TO BE REVISED ACCORDINGLY.

5. ARTICLE 104 B: IN DISCUSSING THIS PROVISION WITH THE AGENCY, WE BELIEVE YOU SHOULD POINT OUT THAT WHEN A FACILITY IS IDENTIFIED, IN ORDER TO MEET THE PRINCIPLE OF NONDISCRIMINATION IT MAY BE NECESSARY THAT ALL OTHER FACILITIES IN THE SAME CLASS WOULD HAVE TO BE IDENTIFIED AT THE SAME TIME. IN SUCH CASE WE WOULD CLOSELY CONSULT ON WHAT CONSTITUTES THE SAME CLASS FOR THIS PURPOSE.

6. ARTICLE 109: WE AGREE WITH THE ADDITION SUGGESTED IN PARA 7 REFTEL (B).

7. WE SUGGEST THAT THE PROTOCOL CONTAIN A DEFINITION OF "PROVISIONAL FACILITY ATTACHMENT," POSSIBLY ALONG THE FOLLOWING LINES: "PROVISIONAL FACILITY ATTACHMENT" MEANS A FACILITY ATTACHMENT, OF THE SAME TYPE AS THOSE WHICH ARE ORDINARILY INCLUDED IN SUBSIDIARY ARRANGEMENTS UNDER PARTS I AND II OF THE AGREEMENT, BUT WHICH HAS NOT YET BEEN INCORPORATED IN SUCH SUBSIDIARY ARRANGEMENTS AND THEREFORE DOES NOT OPERATE TO BRING THE FACILITY CONCERNED UNDER PARTS I AND II OF THE AGREEMENT. FOR PRESENTATION PURPOSES YOU MAY WISH TO CONSIDER CHANGING "PROVISIONAL FACILITY ATTACHMENT" TO "PROTOCOL FACILITY ATTACHMENT" SINCE FACILITY ATTACHMENT WILL HAVE OPERATIVE EFFECT UNDER THE PROTOCOL AND WILL NOT BE PROVISIONAL IN THAT SENSE, BUT ONLY IN ITS RELATIONSHIP TO PARTS I AND II.

8. WE SEE MERIT IN THE RECOMMENDATIONS IN PARAS 5 AND 6 OF OF REFTEL (B) TO DELETE BOTH FROM PARTS I AND II AND THE PROTOCOL REFERENCES TO "OTHER LOCATIONS." IN VIEW OF OUR LIMITED OFFICIAL USE

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DISCUSSIONS WITH THE GERMANS, HOWEVER, WE DO NOT THINK THE LAST SENTENCE OF PARA 6 A REALISTIC SUGGESTION.

9. WE RECOGNIZE THAT ADJUSTMENTS IN THE LANGUAGE WILL HAVE TO BE MADE TO CORRESPOND TO THE ADJUSTMENTS WE MAKE IN PARTS I AND II IN RESPONSE TO THE AGENCY'S COMMENTS ON US DRAFT OF 11/2/72.

10. WE WOULD NOT RULE OUT THE POSSIBILITY THAT INTERNATIONAL TRANSFERS WILL BE COVERED IN THE PROTOCOL AS WELL AS IN PARTS I AND II; BUT WE BELIEVE THAT FOR PURPOSES OF THE SEPTEMBER 26 SESSION WE CAN SIMPLY ALLUDE TO THIS POSSIBILITY AND DEFER DEFINITIVE PROPOSALS UNTIL WE HAVE HAD A FURTHER OPPORTUNITY TO EXPLORE THE POSSIBILITIES OF A SEPARATE AGREEMENT ON INTERNATIONAL TRANSFERS (SEE SEPTTEL). THE NATURE OF SUCH SEPARATE AGREEMENT, IF ANY, COULD OBVIOUSLY AFFECT THE NATURE OF THE PROVISIONS ON INTERNATIONAL TRANSFERS THAT WOULD BE APPROPRIATE IN THIS AGREEMENT AND PROTOCOL.

11. WE WISH TO ASSURE THAT RIGHTS SIMILAR TO THOSE GIVEN US IN ARTICLES 12 AND 14 TO REMOVE MATERIALS AND FACILITIES FROM PARTS I AND II FOR NATIONAL SECURITY PURPOSES ALSO APPLY TO MATERIALS AND FACILITIES COVERED BY THE PROTOCOL.
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